

THE DRAIN CODE OF 1956 (EXCERPT)
Act 40 of 1956

280.196 Inspection of county and intercounty drains; deposits in drain fund; expenditures for inspection, repair, and maintenance of drain; assessment; resolution approving expenditure of additional amounts; reassessment; notice; affidavit of mailing; failure to receive notice; assessment according to benefits received; determination of maximum assessment; emergency condition; excess expenditures upon request of public corporation; costs and bids where work performed by federal agency or public corporation; costs of maintenance and repair; salaries, expenses, and benefits of certain employees.

Sec. 196. (1) An annual inspection may be made of a drain established under this act. Inspection shall also be made upon the request of the governing body of a public corporation, as defined in section 461, served in whole or in part by the drain to be inspected. For county drains, the inspection shall be made by the drain commissioner, or a competent person appointed by the drain commissioner. For intercounty drains, the inspection shall be caused to be made by the drainage board.

(2) Surplus construction funds remaining after completion of construction of a drain, or funds remaining after completion of work performed under a petition for maintenance or improvements under this chapter, shall be deposited in the drain fund of a drainage district and shall be expended for inspection, repair, and maintenance of the drain.

(3) If at any time the drain fund of a drainage district contains less than \$5,000.00 per mile or fraction of a mile of a drain, the drain commissioner or drainage board may assess the drainage district for an amount not to exceed \$2,500.00 per mile or fraction of a mile in any 1 year. The amount collected under an assessment shall be deposited in the drain fund of a drainage district for necessary inspection, repair, and maintenance of the drain.

(4) If an inspection discloses the necessity of expending money for the maintenance and repair of a drain in order to keep it in working order, the drain commissioner for a county drain, or the drainage board for an intercounty drain, may without petition expend an amount not to exceed in any 1 year \$5,000.00 per mile or fraction of a mile for maintenance and repair of a drain, exclusive of inspection and engineering fees and the cost of publication and mailing. The determination of the maximum expenditure allowed without a petition or resolution shall be based on the total number of miles of the drain and not on the actual number of miles or location of the maintenance or repair.

(5) If the drain commissioner or the drainage board finds it necessary to expend funds in excess of the amount established in subsection (4) per mile or fraction of a mile in any 1 year for the maintenance and repair of a drain, the additional amounts shall not be expended until approved by resolution of the governing body of each township, city, and village affected by more than 20% of the cost.

(6) If the drain fund of a drainage district does not contain sufficient funds to pay for inspection, repair, and maintenance authorized by this section, the drain commissioner or the drainage board shall reassess the drainage district for the inspection, repair, and maintenance according to benefits received. A reassessment shall be made and spread upon the city or township tax assessment roll within 2 years after the completion of the inspection, repair, and maintenance. If the total expenditure is more than the amount established in subsection (4) per mile or fraction of a mile, all real property owners subject to an assessment within the drainage district shall be notified of the assessment by publication in a newspaper of general circulation within the drainage district and by first-class mail to the name and address that appears on the last city or township assessment roll. An affidavit of mailing shall be made by the drain commissioner. The affidavit is conclusive proof that the notices required by this subsection were mailed. The failure to receive the notices by mail shall not constitute a jurisdictional defect invalidating a drain tax if notice by publication was given as required by this subsection.

(7) An assessment for the actual cost of inspection, repair, and maintenance performed on a drain, or an assessment to be deposited in the drain fund of a drainage district, shall be made according to benefits received. The expenditure limit of the amount established in subsection (4) per mile of drain or fraction of a mile shall be used to calculate the maximum amount that the drain commissioner or drainage board may assess in any 1 year without a petition or a request from a public corporation. The property in a drainage district that benefits from the inspection, repair, or maintenance of the drain is subject to assessment for that inspection, repair, or maintenance. Determination of the maximum assessment amount allowed without petition or request, or of the property that is subject to assessment, shall be based on the number of miles of drain and areas of the drainage district receiving benefits and not on the actual number of miles or actual

location of the inspection, repair, or maintenance.

(8) If an emergency condition exists that endangers the public health, crops, or property within a drainage district, the drain commissioner or the drainage board may expend funds for maintenance and repair to alleviate the emergency condition.

(9) Nothing in this section prohibits the drain commissioner or the drainage board from spending funds in excess of the amount established in subsection (4) per mile or fraction of a mile in any 1 year for inspection, maintenance, and repair of a drain when requested by a public corporation, if the public corporation pays the entire cost of the inspection, maintenance, and repair.

(10) In computing the amounts that may be expended in accordance with this section, the cost of work to be performed by a federal agency or public corporation that is not chargeable to the county or intercounty drainage district shall not be included, nor shall it be necessary for the drain commissioner or the drainage board to advertise for bids for that portion of the work to be done by the federal agency or public corporation.

(11) For purposes of this section, the costs of maintenance or repair shall include the costs of maintaining the drain in working order to continue a normal flow of water, including the servicing or repair of necessary pumping equipment and utility charges for pumping equipment; the cost of keeping the drain free from rubbish, debris, siltation, or obstructions; the cost of repairing a portion or all of a tile or drain to continue the normal flow of water; and other costs associated with the costs enumerated in this subsection.

(12) If the cost of maintenance and repair of a drain includes utility charges or costs to service pumping stations, sewage treatment facilities, or retention basins, the limitation for maintenance and repair does not apply except that the drain commissioner or drainage board may levy sufficient special assessments to pay the charges or costs but not more than the amount sufficient to pay those charges or costs.

(13) Except as otherwise provided in this act, that portion of the salaries, expenses, and fringe benefits of administrative and engineering employees under the supervision of the drain commissioner that are directly attributable, but not incidental, to a drain or otherwise not recovered by fees established by resolution or ordinance of the board of commissioners may be chargeable to the drain fund of a drainage district.

History: 1956, Act 40, Imd. Eff. Mar. 28, 1956;—Am. 1959, Act 70, Imd. Eff. June 12, 1959;—Am. 1960, Act 96, Imd. Eff. Apr. 26, 1960;—Am. 1962, Act 117, Eff. Mar. 28, 1963;—Am. 1968, Act 333, Imd. Eff. July 14, 1968;—Am. 1972, Act 270, Imd. Eff. Oct. 11, 1972;—Am. 1976, Act 344, Imd. Eff. Dec. 19, 1976;—Am. 1982, Act 523, Eff. Mar. 30, 1983;—Am. 1989, Act 149, Imd. Eff. July 14, 1989;—Am. 2008, Act 509, Eff. Mar. 31, 2009.

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